

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

STACY L. REID,
Plaintiff,

vs.

WACHOVIA, A WELLS FARGO
COMPANY, WELLS FARGO N.A.,
SUCCESSOR BY MERGER TO WELLS
FARGO SOUTHWEST, N.A. F/K/A
WACHOVIA MORTGAGE FSB, F/K/A
WORLD SAVINGS BANK FSB,
Defendants.

MEMORANDUM DECISION AND
ORDER GRANTING MOTIONS TO
DISMISS

Case No. 2:10-CV-501 TS

Plaintiff Stacy L. Reid moves the Court to dismiss this action against Defendants without prejudice. Under Rule 41 of the Federal Rules of Civil Procedure, “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.”¹ Defendants agree that dismissal is appropriate, but argue that the Court should

¹Fed.R.Civ.P. 41(a)(2). The Court notes that a Plaintiff may voluntarily dismiss an action without a Court Order by (1) filing a notice of dismissal before the opposing party serves an answer or motion for summary judgment or (2) filing a stipulated dismissal. *Id.* at 41(a)(1)(A). Plaintiff has failed to comply with either of these requirements.

dismiss the case with prejudice because the case law cited in support of its own Motion to Dismiss or in the Alternative for Summary Judgment² favors dismissal on the merits. The Court agrees with Defendants that the case law cited in Defendants' briefs demonstrates that Plaintiff's claims fail to state a claim upon which relief can be granted. Indeed, the Court notes that the legal theories upon which Plaintiff bases her claims have been repeatedly rejected in this District.³ Accordingly, the Court finds that dismissal with prejudice for the failure to state a claim is appropriate. It is therefore

ORDERED that Defendants' Motion to Dismiss (Docket No. 8) and Plaintiff's Motion to Dismiss (Docket No. 17) are GRANTED and the Complaint is DISMISSED WITH PREJUDICE for the failure to state a claim upon which relief can be granted.

The Clerk of Court is directed to close this case forthwith.

DATED December 29, 2010.

BY THE COURT:



TED STEWART
United States District Judge

²Docket No. 8.

³*E.g. Foster v. BAC Home Loan Servicing, LP*, 2010 WL 3791976, 3 (D. Utah Sept. 22, 2010) (collecting cases).